

BEFORE THE
SURFACE TRANSPORTATION BOARD

217277

FINANCE DOCKET NO. 34890, ET AL.

PYCO INDUSTRIES – FEEDER LINE APPLICATION – LINES OF
SOUTH PLAINS SWITCHING, LTD.

COMMENTS OF SOUTHERN COTTON OIL COMPANY

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Dated: August 14, 2006

Southern Cotton Oil Company ("SCO"), a division of Archer Daniels Midland Company, submits these comments pursuant to the Board's Decision in these proceedings served on August 3, 2006.

SCO is a shipper of cotton seed oil and meal, with a facility served by South Plains Switching, Ltd. ("SAW") that is located on that part of the SAW line that is beyond what has been identified by the Board in this proceeding as the "Alternative Two" segment.

SCO has become increasingly concerned regarding the future of rail service over the SAW line. SCO has been observing developments regarding service over the SAW line, beginning with disputes that surfaced between PYCO Industries, Inc. ("PYCO") and SAW. PYCO produces cotton seed and cotton seed oil and meal and sells many of those commodities into the same markets as does SCO, but in recent years PYCO has generated approximately twice the volume of those commodities by rail as has SCO. Shipping levels of cotton products from the territory served by SAW fluctuate according to the size of the local cotton crop. This year's crop will be significantly smaller than the crops of the prior few years.

Nevertheless, continued rail service remains essential to SCO, which believes that such service will be threatened if the SAW line is bifurcated and operated as two separate segments by two different carriers. In that respect, SCO notes Table 6 to the Verified Statement of Joseph J. Plaistow, submitted to the Board by SAW on August 1, 2006. Taken at face value, that Table concludes that, in 2005, had there been an Alternative Two segment operated separately from the remainder of the line, the remaining line – the segment on which SCO is located – would have sustained a loss of approximately

\$23,000. Even putting those SAW projections aside, common sense strongly suggests that if an estimated 50 percent or more of the full line's traffic generated by the three shippers (PYCO, Attebury Grain, and Farmers Cooperative Compress), on the approximately five mile "Alternative Two" segment is operated separately from the balance of the line, which is over 10 miles in length, the railroad serving the larger line segment and the majority of the total shippers is highly unlikely to survive or to be able to provide decent, reliable service.

SCO accordingly urges the Board to give the broadest possible construction to the request of PYCO to acquire the entire SAW line. SCO also urges the Board to accord similar treatment to the request of Keokuk Junction Railway Company ("KJRY") to pursue a competing application coextensive with what PYCO has called the "all-SAW" alternative and to the request of BNSF Railway Company ("BNSF") for enforcement of its asserted right of first refusal. All of these options would provide unified service over the entire line.

SCO recognizes that PYCO opposes efforts by KJRY to expand its competitive application as one applicable to the entire SAW line, and by pressing the Board to allow an all-SAW competitive application by KJRY, SCO is not expressing a preference for one carrier over another. Rather, SCO is simply asking the Board to permit the competitive application process contemplated by its rules at 49 C.F.R. Part 1151 to be utilized fully and fairly by all interested parties in a way that best serves the interest of all shippers.

The Board presumably recognizes that the efficacy of a competing application is not to be determined by an "election" among shippers on the line because competing ap-

plicants are not required to obtain the support of a majority, or any, of the shippers. Indeed, it is largely because shippers are not, and should not for fairly obvious commercial reasons be, required to choose sides between two competing applicants, that SCO has not indicated any preference for a specific new carrier once it learned of the interest of KJRY and possibly others in filing competitive applications.

SCO is aware that PYCO is being served under Board-mandated directed service requirements that will expire on October 23 of this year and that the Board may be motivated to conclude its Section 10907 proceedings before any mandated service orders expire. SCO has no desire to see PYCO left without rail service on account of the expiration of any service order. However, before the Board sacrifices the ability of any party to pursue a competing application due to concern about the Board's ability to conclude this proceeding by October 23, the Board should take all possible steps to explore means whereby rail service to PYCO can be provided by an entity other than SAW after October 23 (assuming that there remains a need for PYCO to be served by an entity other than SAW at that time in light of this year's diminished cotton crop). PYCO undertook its battles with SAW in order to obtain rail service that PYCO deemed reasonable, and not for the purpose of altering rail service being provided to shippers such as SCO far down the line from PYCO. SCO respects PYCO's desire and efforts to assure *itself* of reasonable and adequate rail service, but that goal should not be dispositive of service available to

other shippers on the SAW line under the competitive application provisions in the Board's rules.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have, this 14th day of August, 2006, served copies of the foregoing Comments of Southern Cotton Oil Company on all parties of record, by first class mail, postage prepaid.

Andrew P. Goldstein